

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA, ) Magistrate Case No. **08MJ8126**  
11 Plaintiff, )  
12 v. )  
13 Jose MONTANO-Anzures, )  
14 Defendant. )  
15

**FINDINGS OF FACT AND  
ORDER OF DETENTION**

16 In accordance with § 3142(f) of the Bail Reform Act of 1984 (18 U.S.C. § 3141 et seq.),  
17 a detention hearing was held on February 11, 2008, to determine whether defendant Jose MONTANO-  
18 Anzures, should be held in custody pending trial on the grounds that he is a flight risk. Assistant  
19 U. S. Attorney John F. Weis appeared on behalf of the United States. Matthew Hagen, Federal  
20 Defenders of San Diego, Inc., appeared on behalf of the Defendant.

21 Based on the evidence proffered by the United States and the Defendant, the Pretrial Services  
22 Officer, and the criminal complaint issued against the Defendant on February 11, 2008, by this Court,  
23 the Court concludes that the following facts establish by a preponderance of the evidence that no  
24 condition or combination of conditions will reasonably assure the appearance of the Defendant required.

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FINDINGS OF FACT3  
A. Nature and Circumstances of the Offense Charged (18 U.S.C. §3142(G)(1)4  
1. The Defendant is charged in Criminal Complaint No. 08MJ8126 with the importation  
5 of 18.10 kilograms (39.82 pounds) of cocaine in violation of 21 U.S.C. § 952 and 960. Therefore,  
6 probable cause exists to believe the Defendant committed the charged offense.7  
2. The charged offense is an offense for which a maximum term of imprisonment of  
8 10 years or more is prescribed in the Uniform Controlled Substances Act (21 U.S.C. § 801 et seq.). Thus,  
9 there arises a presumption that no condition or combination of conditions will reasonably assure the  
10 appearance of the Defendant as required. See 18 U.S.C. § 3142(e).11  
3. The offense carries with it a minimum mandatory 10 year sentence and a maximum  
12 life sentence. See 21 U.S.C. § 960(b)(1)(B). According to the United States Sentencing Guidelines,  
13 the Base Offense level is 34. See USSG § 2D1.1(3). Assuming the Defendant's criminal history score  
14 places him in Criminal History Category I, See USSG § 4A1.1, the sentencing range for the Defendant  
15 is 151-188 months in prison.16  
B. Weight of the Evidence Against the Defendant (18 U.S.C. § 3142(g)(2):17  
1. On February 10, 2008, the Defendant was the driver and sole occupant of a 2000  
18 Ford Mustang, bearing Baja California Mexico license plate BEC5523, as he arrived at the East  
19 Calexico, California, Port of Entry. The Defendant stated to a Customs & Border Protection Officer that  
20 he has owned the 2000 Ford Mustang for a month. The officer noticed that the Defendant became  
21 restless. The Defendant and the vehicle were referred to the secondary inspection area. The officer  
22 noticed that the rocker panels appeared to have been tampered with. A Narcotic Detector Dog alerted  
23 to the driver's side rocker panels of the vehicle. A subsequent inspection of the vehicle resulted in the  
24 discovery of 18.10 kilograms (39.82 pounds) of cocaine concealed within the engine. The Defendant  
25 admitted knowledge of the narcotics concealed within the vehicle. The Defendant stated he was  
26 smuggling the narcotics to El Centro, California. The Defendant stated he was to be paid \$2,000.00 once  
27 he returned to Mexico.28  
C. History and Characteristics of the Defendant (18 U.S.C. § 3142(G)(3):

1. The Defendant is a citizen of Mexico.

1                   2. The Defendant resides in Mexicali, Baja California, Mexico, with his parents.  
2                   3. The Defendant has no legal right to remain or work in the United States as he  
3 possesses only a border crossing card.

4                   D. Nature and Seriousness of Danger Posed by Release (18 U.S.C. § 3142(g)(4)):

5                   1. The government proffered no evidence to suggest that release of the Defendant  
6 would pose a danger to any person or the community.

7                   II

8                   REASONS FOR DETENTION

9                   A. There is probable cause to believe that the Defendant committed the offense charged in  
10 Criminal Complaint Number 08MJ8126, to wit: the importation of 18.10 kilograms (29.82 pounds) of  
11 cocaine in violation of 21 U.S.C. § 952 and 960.

12                   B. The Defendant faces a substantial period of time in custody if convicted of the offense  
13 charged in the Complaint. He therefore has a strong motive to flee.

14                   C. The Defendant has not rebutted the presumption, based upon the Court's findings that  
15 there is probable cause to believe that the Defendant committed an offense for which a maximum term  
16 of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. § 801  
17 et seq.), that no condition or combination of conditions will reasonably assure the appearance of the  
18 Defendant at future court proceedings.

19                   III

20                   ORDER

21                   IT IS HEREBY ORDERED that the Defendant be detained pending trial in this matter.

22                   IT IS FURTHER ORDERED that the Defendant be committed to the custody of the Attorney  
23 General or his designated representative for confinement in a corrections facility separate, to the extent  
24 practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The  
25 Defendant shall be afforded reasonable opportunity for private consultation with counsel.

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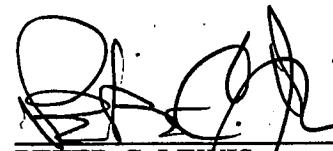
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1        While in custody, upon order of a court of the United States or upon the request of an attorney  
2        for the United States, the person in charge of the correctional facility shall deliver the Defendant to the  
3        United States Marshal for the purpose of an appearance in connection with a court proceeding or any  
4        other appearance stipulated to by defense and government counsel.

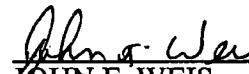
5        THIS ORDER IS ENTERED WITHOUT PREJUDICE.

6        IT IS SO ORDERED.

7        DATED: 2-28-08.

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11      PETER C. LEWIS  
12      UNITED STATES MAGISTRATE JUDGE

13      Prepared by:

14      KAREN P. HEWITT  
15        
16      United States Attorney

17      cc:     Federal Defenders of San Diego, Inc.

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